

VIA FACSIMILE (703)872-9306

9D-EC-19310  
PATENT**Remarks**

Claims 1-15, 17-23, 25-46, and 48-53 are now pending in this application. Claims 1-15, 17-46, and 48-53 are rejected. Claims 16, 24, and 47 have been canceled without prejudice, waiver, or disclaimer. Claims 1, 28, 40, 41, 42, and 50 have been amended. No new matter has been added.

The rejection of Claims 1-15, 17-46, and 48-53 under 35 U.S.C. § 103(a) as being unpatentable over Call (U.S. Patent 5,913,210) in view of Nicholls et al. (U.S. Patent 5,485,369) is respectfully traversed.

Call describes a system including an Internet resource, called a "product code translator," for storing cross-references between universal product codes identifying specific products and Internet addresses specifying locations at which information about products may be obtained (column 1, lines 37-41). The cross-references are transferred from participating manufacturers to the product code translator using a product code registration process (column 1, lines 42-44). The transferred cross-references specify universal product codes assigned to the participating manufacturers, such as the U.P.C. and EAN codes widely used in retail stores for barcode scanning at checkout counters (column 1, lines 45-48). The centrally stored cross-references thus correlate sets of universal product codes with the Internet addresses where information can be obtained about the products designated by those codes (column 1, lines 47-51).

Nicholls et al. describe a system including a shipping station (26). The shipping station may include one or more computer terminals to which a scanning device (32), an electronic scale (34) and mailing label printers (36) may be attached (column 3, line 65 – column 4, line 3). Preferably, the printers are capable of printing necessary shipping documents, bills of lading, manifests and so forth, as well as the appropriate package labeling (column 4, lines 1-3). The system includes one or more rate servers that include carrier-related information, such as shipping rates, shipping rules, and time in transit information (column 4, lines 49-52). The system also includes one or more client applications that facilitate a particular shipper's requirements, such as order taking, order

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fulfillment, and inventory control (column 4, lines 55-58). The client applications call upon necessary rate servers, as needed, for appropriate shipping rates and shipping requirements of a selected carrier (column 4, lines 60-62). The system further includes a shipments client that accepts user input for routing, rating and documentation of a group of packages (column 7, lines 53-55). The system also includes supervisory managers that are preprogrammed with an ability to send "announcements" across a network operating system according to a named pipe protocol (column 12, lines 45-47).

Claim 1 recites a method of delivering goods from a supplier to a buyer utilizing a system having at least one delivery agent, at least one store, at least one supplier, and a plurality of buyers, where the at least one delivery agent, the at least one store, and the at least one supplier are coupled to a communications network, the method including the steps of "contemporaneously communicating respective order information from a respective store to a logistics intermediary; generating respective invoice information from said respective order information; electronically communicating said respective invoice information from said logistics intermediary to a respective delivery agent based on an electronic manifest; noting exceptions and electronically communicating the exceptions to said logistics intermediary, wherein the exceptions are noted and electronically communicated by said respective delivery agent; electronically communicating the exceptions from said logistics intermediary to a respective supplier and to the respective store from which goods were ordered; electronically communicating a disposition status of respective shipped goods from said respective delivery agent to said logistics intermediary; responding, by said respective supplier, based on the exceptions, including conditions of the respective shipped goods, provided by said respective delivery agent to said respective supplier via said logistics intermediary; and updating said electronic manifest, wherein said electronic manifest is updated by said logistics intermediary."

Neither Call nor Nicholls et al., considered alone or in combination, describe or suggest a method of delivering goods from a supplier as recited in Claim 1. Specifically, neither Call nor Nicholls et al., considered alone or in combination, describe or suggest responding, by the respective supplier, based on the exceptions, including conditions of

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the respective shipped goods, provided by the respective delivery agent to the respective supplier via the logistics intermediary. Rather, Call describes storing cross-references between universal product codes identifying specific products and Internet addresses specifying locations at which information about products may be obtained and transferring the cross-references from participating manufacturers to the product code translator. Nicholls et al. describe attaching a scanning device, an electronic scale, and mailing label printers to a shipping station. Nicholls et al. also describe printing, via the printers, necessary shipping documents, bills of lading, manifests, and the appropriate package labeling. Nicholls et al. further describe facilitating, via client applications, a particular shipper's requirements, such as order taking, order fulfillment, and inventory control. Nicholls et al. describe calling, by the client applications, upon necessary rate servers, as needed, for appropriate shipping rates and shipping requirements of a selected carrier, accepting, by a shipments client, user input for routing, rating and documentation of a group of packages, and preprogramming supervisory managers with an ability to send "announcements" across a network operating system according to a named pipe protocol. Accordingly, neither Call nor Nicholls et al., considered alone or in combination, describe or suggest responding as recited in Claim 1. For the reasons set forth above, Claim 1 is submitted to be patentable over Call in view of Nicholls et al.

Claim 24 has been canceled. Claims 2-15, 17-23, and 25-27 depend from independent Claim 1. When the recitations of Claims 2-15, 17-23, and 25-27 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 2-15, 17-23, and 25-27 likewise are patentable over Call in view of Nicholls et al.

Claim 28 recites a system for delivering goods from a plurality of suppliers to a plurality of buyers based on respective orders placed by the plurality of buyers, the system including "a communications network; a logistics intermediary coupled to said communications network, said logistics intermediary having an electronic manifest; wherein said logistics intermediary is adapted to adjust good deliveries based on an exception report; at least one delivery agent coupled to said communications network, wherein said at least one delivery agent is adapted to deliver and install the goods ordered

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by a respective buyer based on information in said electronic manifest; at least one supplier adapted to generate order reschedules of the goods based on exceptions, including conditions of the goods, provided by the at least one delivery agent to said at least one supplier via said logistics intermediary; and at least one store coupled to said communications network, wherein said at least one store is adapted to receive order information generated by each respective buyer and communicate the order information to said logistics intermediary via said communications network."

Neither Call nor Nicholls et al., considered alone or in combination, describe or suggest a system for delivering goods from a plurality of suppliers as recited in Claim 28. Specifically, neither Call nor Nicholls et al., considered alone or in combination, describe or suggest at least one supplier adapted to generate order reschedules of the goods based on exceptions, including conditions of the goods, provided by the at least one delivery agent to the at least one supplier via the logistics intermediary. Rather, Call describes storing cross-references between universal product codes identifying specific products and Internet addresses specifying locations at which information about products may be obtained and transferring the cross-references from participating manufacturers to the product code translator. Nicholls et al. describe attaching a scanning device, an electronic scale, and mailing label printers to a shipping station. Nicholls et al. also describe printing, via the printers, necessary shipping documents, bills of lading, manifests, and the appropriate package labeling. Nicholls et al. further describe facilitating, via client applications, a particular shipper's requirements, such as order taking, order fulfillment, and inventory control. Nicholls et al. describe calling, by the client applications, upon necessary rate servers, as needed, for appropriate shipping rates and shipping requirements of a selected carrier, accepting, by a shipments client, user input for routing, rating and documentation of a group of packages, and preprogramming supervisory managers with an ability to send "announcements" across a network operating system according to a named pipe protocol. Accordingly, neither Call nor Nicholls et al., considered alone or in combination, describe or suggest at least one supplier as recited in Claim 28. For the reasons set forth above, Claim 28 is submitted to be patentable over Call in view of Nicholls et al.

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Claims 29-41 and 49 depend from independent Claim 28. When the recitations of Claims 29-41 and 49 are considered in combination with the recitations of Claim 28, Applicants submit that dependent Claims 29-41 and 49 likewise are patentable over Call in view of Nicholls et al.

Claim 42 recites a system for integrating information for the delivery of goods from a supplier to a buyer, the system having at least one delivery agent, at least one store, at least one supplier, and a plurality of buyers, the system including "means for utilizing a communications network to transfer order and shipping information between a respective supplier, a respective delivery agent, and a respective store; means for utilizing a logistics intermediary coupled to said communications network, said logistics intermediary being adapted to employ an electronic manifest; means for providing order and shipping information to the at least one delivery agent and the at least one supplier, wherein said at least one delivery agent is adapted to deliver and install the goods ordered by the respective buyer based on information in said electronic manifest; means for scheduling a shipment of the goods produced by the at least one supplier based on said order and shipping information, and an exception report, wherein said at least one supplier is adapted to generate order reschedules of the goods based on exceptions, including conditions of the goods, provided by said at least one delivery agent to said at least one supplier via said logistics intermediary; and means for updating the electronic manifest after the order has been executed."

Neither Call nor Nicholls et al., considered alone or in combination, describe or suggest a system for integrating information for the delivery of goods from a supplier as recited in Claim 42. Specifically, neither Call nor Nicholls et al., considered alone or in combination, describe or suggest at least one supplier is adapted to generate order reschedules of the goods based on exceptions, including conditions of the goods, provided by the at least one delivery agent to the at least one supplier via the logistics intermediary. Rather, Call describes storing cross-references between universal product codes identifying specific products and Internet addresses specifying locations at which information about products may be obtained and transferring the cross-references from participating manufacturers to the product code translator. Nicholls et al. describe

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attaching a scanning device, an electronic scale, and mailing label printers to a shipping station. Nicholls et al. also describe printing, via the printers, necessary shipping documents, bills of lading, manifests, and the appropriate package labeling. Nicholls et al. further describe facilitating, via client applications, a particular shipper's requirements, such as order taking, order fulfillment, and inventory control. Nicholls et al. describe calling, by the client applications, upon necessary rate servers, as needed, for appropriate shipping rates and shipping requirements of a selected carrier, accepting, by a shipments client, user input for routing, rating and documentation of a group of packages, and preprogramming supervisory managers with an ability to send "announcements" across a network operating system according to a named pipe protocol. Accordingly, neither Call nor Nicholls et al., considered alone or in combination, describe or suggest at least one supplier as recited in Claim 42. For the reasons set forth above, Claim 42 is submitted to be patentable over Call in view of Nicholls et al.

Claims 43-46 depend from independent Claim 42. When the recitations of Claims 43-46 are considered in combination with the recitations of Claim 42, Applicants submit that dependent Claims 43-46 likewise are patentable over Call in view of Nicholls et al.

Claim 50 recites a system having at least one delivery agent, at least one store, at least one supplier, and a plurality of buyers, where the at least one delivery agent, the at least one store, and the at least one supplier are coupled to a communications network, the system including "a logistics intermediary electronically communicating respective invoice information to a respective delivery agent based on an electronic manifest, said logistics intermediary electronically communicating said respective invoice information via a server to said respective delivery agent, said respective invoice information generated from said respective order information, said respective delivery agent noting exceptions and electronically communicating via the server the exceptions to said logistics intermediary, said at least one supplier adapted to respond, based on the exceptions, including conditions of a plurality of shipped goods, provided by said respective delivery agent to said at least one supplier via said logistics intermediary; and

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a respective store contemporaneously communicating via the server respective order information to said logistics intermediary."

Neither Call nor Nicholls et al., considered alone or in combination, describe or suggest a system as recited in Claim 50. Specifically, neither Call nor Nicholls et al., considered alone or in combination, describe or suggest at least one supplier adapted to respond, based on the exceptions, including conditions of a plurality of shipped goods, provided by the respective delivery agent to the at least one supplier via the logistics intermediary. Rather, Call describes storing cross-references between universal product codes identifying specific products and Internet addresses specifying locations at which information about products may be obtained and transferring the cross-references from participating manufacturers to the product code translator. Nicholls et al. describe attaching a scanning device, an electronic scale, and mailing label printers to a shipping station. Nicholls et al. also describe printing, via the printers, necessary shipping documents, bills of lading, manifests, and the appropriate package labeling. Nicholls et al. further describe facilitating, via client applications, a particular shipper's requirements, such as order taking, order fulfillment, and inventory control. Nicholls et al. describe calling, by the client applications, upon necessary rate servers, as needed, for appropriate shipping rates and shipping requirements of a selected carrier, accepting, by a shipments client, user input for routing, rating and documentation of a group of packages, and preprogramming supervisory managers with an ability to send "announcements" across a network operating system according to a named pipe protocol. Accordingly, neither Call nor Nicholls et al., considered alone or in combination, describe or suggest at least one supplier as recited in Claim 50. For the reasons set forth above, Claim 50 is submitted to be patentable over Call in view of Nicholls et al.

Claims 51-53 depend from independent Claim 50. When the recitations of Claims 51-53 are considered in combination with the recitations of Claim 50, Applicants submit that dependent Claims 51-53 likewise are patentable over Call in view of Nicholls et al.

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For at least the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 1-15, 17-46, and 48-53 be withdrawn.

Moreover, Applicants respectfully submit that the Section 103 rejection of Claims 1-15, 17-46, and 48-53 is not a proper rejection. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Call nor Nicholls et al., considered alone or in combination, describe or suggest the claimed combination. Furthermore, in contrast to the assertion within the Office Action, Applicants respectfully submit that it would not be obvious to one skilled in the art to combine Call with Nicholls et al. because there is no motivation to combine the references suggested in the cited art itself.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Furthermore, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Call teaches storing cross-references between universal product codes identifying specific



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products and Internet addresses specifying locations at which information about products may be obtained and transferring the cross-references from participating manufacturers to the product code translator. Nicholls et al. teach attaching a scanning device, an electronic scale, and mailing label printers to a shipping station. Nicholls et al. also teach printing, via the printers, necessary shipping documents, bills of lading, manifests, and the appropriate package labeling. Nicholls et al. further teach facilitating, via client applications, a particular shipper's requirements, such as order taking, order fulfillment, and inventory control. Nicholls et al. teach calling, by the client applications, upon necessary rate servers, as needed, for appropriate shipping rates and shipping requirements of a selected carrier, accepting, by a shipments client, user input for routing, rating and documentation of a group of packages, and preprogramming supervisory managers with an ability to send "announcements" across a network operating system according to a named pipe protocol. Since there is no teaching nor suggestion in the cited art for the combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejections of Claims 1-15, 17-46, and 48-53 be withdrawn.

For at least the reasons set forth above, Applicants respectfully request that the rejections of Claims 1-15, 17-46, and 48-53 under 35 U.S.C. 103(a) be withdrawn.

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In view of the foregoing amendment and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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